

UNITED STATES OF AMERICA  
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

In the Matter of )  
 )  
CROW BUTTE RESOURCES, INC. , ) Docket No. 40-8943  
 ) ASLBP No. 08-867-02-OLA-BD01  
(License Renewal for the )  
In Situ Leach Facility, Crawford, Nebraska) May 8, 2015

**OGLALA SIOUX TRIBE’S SUPPLEMENTAL POSITION STATEMENT**

The Oglala Sioux Tribe (“OST” or “Tribe”) hereby makes this supplemental submission for the Tribe to the Consolidated Intervenor’s and Oglala Sioux Tribe’s Joint Position Statement on admitted Contentions A, C, D, F, 1, 6, 9, 12, and 14, as set forth by the Board at Exhibit A to its March 16, 2015 ruling LBP 15-11.

The Oglala Sioux Tribe submits herewith the Statement of Charmaine White Face (Exhibit OST-001) in regards to the following contentions: A (radiological health impacts), D (environmental justice), and EA9 (groundwater restoration mitigation measures). Ms. White Face is a member of the Tribe and a scientist with a college degree in biology and the physical sciences with additional training and education in chemistry and microbiology. She has a personal interest in the water quality on the Oglala Sioux Pine Ridge Reservation and has engaged in sampling water wells on the Reservation and having the samples tested for water quality, including the existence and levels of radioactive substances and their daughter products.

The Oglala Sioux Tribe is composed of approximately 41,000 citizens. INT-31, INT-32. Approximately one-half of its citizens reside on the Pine Ridge Reservation having a territory of over 4,700 square miles found within the 50 mile radius of the Crow Butte facility. *Id.*; also, EA

42 (Figure 3-3), 43. Both the underground and surface waters flow downstream onto the Reservation from the area of the Crow Butte facility. OST-001; INT-53 (p. 81); also, Allen J. Heakin, "Water Quality of Selected Springs and Public-Supply Wells, Pine Ridge Indian Res., S.D., 1992-1997," USGS (2000) ( <http://pubs.usgs.gov/wri/wri994063/wri994063.pdf> ), p. 5, 8 (Figure 2); Ellis and Adolphson, "Hydrology of the Pine Ridge Indian Reservation, South Dakota," USGS (1971) ([https://store.usgs.gov/yimages/PDF/HA-357\\_Sheet\\_1of2\\_SD\\_Hydrogeology\\_Pine\\_Ridge\\_Indian\\_Res\\_1971.pdf](https://store.usgs.gov/yimages/PDF/HA-357_Sheet_1of2_SD_Hydrogeology_Pine_Ridge_Indian_Res_1971.pdf) ); Carter and Heakin, "Generalized Potentiometric Surface of the Arikaree Aquifer, Pine Ridge Indian Reservation and Bennett Cty, S. Dak.," USGS (2007) ( [http://pubs.usgs.gov/sim/2993/pdf/sim2993\\_sheet2.pdf](http://pubs.usgs.gov/sim/2993/pdf/sim2993_sheet2.pdf) ).

As noted in the EA at pages 43 and 92, Shannon County, South Dakota is entirely within the Pine Ridge Reservation and is 96 percent Native American with about 54 percent of the population below the poverty level.

Despite these statistics, the EA in its Environmental Justice analysis writes off "because of the distance between the Pine Ridge Indian Reservation and the CBR facility" consideration of disproportionate impacts upon the Oglala Lakota people residing on the Reservation. EA92. The EA makes no mention anywhere of the existence or risk of downstream contamination from the activities of the Application at the Crow Butte area of Reservation groundwater or surface water, or of the disparate impact at the Crow Butte site upon the Tribe's historic, cultural, religious, or spiritual resources and interests. The latter is discussed in the joint submission

herewith by the Tribe and Consolidated Intervenors.

The ground and surface waters of the Reservation used to be used widely by those residing on the Reservation. INT-21; INT-53 (p. 167). Within the lifetimes of the current residents, both the ground and surface waters of the Reservation have become contaminated. *Id.*; also OST-001. The Tribe is now dependent on water imported by pipeline from the Missouri River far to the east of the Reservation. INT-21; INT-53 (p. 156). As Debra White Plum stated:

Our Pine Ridge Homelands has 85% unemployment, the highest suicide rate in America, lacks basic housing needs for 4,000 families, 90% of our children live at or under the poverty level. President Obama has recently declared our Homelands a "Promise Zone".

All over the reservation, we have to hook up to the Rural Water Supply System, funded by the United States to pipe in drinking water from the Missouri River at Pierre, SD because our ground water tests reveal high amounts of radioactivity and arsenic and other contaminants.

Our tribal members used to be able to make use of the White River, fishing in it, watering horses and cattle, and for crop irrigation. Now, most people are leery of it due to contamination and low flow.

Tribal members who learn that their water source is contaminated are often unable to afford bottled water so are they likely to drink it anyway. It is difficult for tribal members to drive to grocery stores or other sources of bottled water, I live a ten mile round trip from the nearest store, 180 miles from the nearest shopping center. I drink well water from the Oglala Aquifer, as the Rural Water Supply System is no longer funded by Congress and there are currently 400 homes on the waiting list.

Ex. INT-21. Because of their ties to their ancestral lands, the Lakota do not have the option of moving away from contaminated lands and water as non-Native people do. Because of their poverty, they cannot afford remediation of contaminated ground or surface waters or Tribal or individual treatment of contaminated waters to make them drinkable.

Following up on requests from Pine Ridge Reservation residents, Ms. White Face began taking and testing drinking water samples from water wells around the Reservation. OST-001

(pp.2-3). Analyzing the ratio of naturally occurring Uranium isotopes and of Thorium 234, Ms. White Face discovered an indication of a connection between the decades of mining activity at the Crow Butte facility with the contamination of the ground water resources on the Pine Ridge Reservation: "The results from the tests of domestic water from the deep wells into the Arikaree aquifer combined with the direction of flow within the Arikaree aquifer, and the number of excursions from the Crow Butte Resources operation [INT-007], the secondary porosity, and the physical pull from the wells lead to the conclusion that Crow Butte Resources is polluting the Arikaree aquifer with radioactive contaminants." OST-001, pp. 7-8. Ms. White Face the testing of the Arikaree aquifer between the Reservation and the Crow Butte facility for radioactive contamination. OST-001, p. 8.

The foregoing analysis of Ms. White Face raises Contention A issues of radiological health impacts to residents of the Pine Ridge Reservation from exposure to contaminated water, Contention D issues of environmental justice due to the contamination of the Reservation's drinking water resources, and Contention EA9 issues of restoration of contaminated Reservation groundwater that were not considered anywhere in the Environmental Assessment. Without an environmental assessment that met the full requirements of NEPA and took a hard look at these issues, it was improper for the NRC Staff to approve the issuance of the renewal of CBR Crow Butte ISL license.

#### **IV. Conclusion**

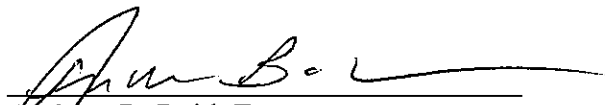
The Board should grant each of the Intervenors' contentions, revoke the license renewal, and affirm that the NRC Staff failed to comply with the Atomic Energy Act and NEPA. In the

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alternative, should the Board decide to uphold the license renewal, the Board should impose conditions, monitoring and reporting similar to what was imposed by the Board in LBP 15-16.

Dated this 8th day of May, 2015.

Respectfully submitted,



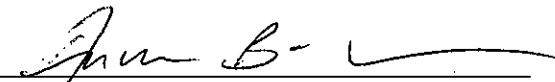
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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing **OGLELA SIOUX TRIBE'S SUPPLEMENTAL POSITION STATEMENT**, together with the **STATEMENT OF CHARMAINE WHITE FACE** with Exhibits in the captioned proceeding were served via email on the 8th day of May 2015, which to the best of my knowledge resulted in transmittal of same to those on the EIE Service List for the captioned proceeding.

  
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 Andrew B. Reid